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1949

File No. Co-op. II/49 (R)

Legal Deptt.

B BRANCH

Subject:— Rules under the Co-operative Societies Act 1925

P-7

File No. Co-op II/49 (R)

Gen. 194

258-B

Legal Department.

The provision of rule 8 of the Bombay Co-operative Societies Rules, 1927, regarding the deductions to be made in calculating the total amount of liability would apply to all societies other than the Bombay Provincial Co-operative Bank Limited. The intention now is that in the case of societies which are selected by the Provincial Government as District Wholesalers for the distribution of yarn the method of calculating the total liability should be different from that provided in rule 8. Unless therefore the said rules are amended so as to make a special provision inthe the case of co-operative societies selected by Government as District Wholesalers for the distribution of yarn for calculating the total amount of such liability in the manner desired no valid order can be made under that rule as proposed by the R.D. The following amendment of the rules is therefore suggested for the purpose :-

" In the Bombay Co-operative Societies Rules, 1927 .-

(1) in sub-rule (1) of rule(8), after the word "Limited" the words, figure and letter "and the society referred to in rule 8B" shall be inserted;

(ii) after rule 8A, the following rule shall be inserted, namely :-

"8B Restriction on borrowing by societies selected as wholesaler for the distribution of yarn
(1) No District Industrial Association or Primary Weavers 'Society , which has been selected by Government as District Wholesaler for the distribution of yarn shall, without the previous sanction of the Registrar, incur liability exceeding in total eight times the total amount of its paid up share capital, accumulated losses. Reserved fund and building fund minus accumulated losses.

(2) In calculating the total amount of liability for the purposes of this rule, a sum equal to the amount borrowed by such association or society on the pledge or hypothecation of yarn shall be deducted from the amount of the actual liability of such association or society ."

Under sub-section (4) of section 71 of the Act the amendment can only be made after previous publication.

Sd/- J.R.Dhurandar. 23-2

Additional Secretary to Government.

U.R. to R.D., No 8181 , dated the 23rd February 1949.

M.M.D. /2.5

O R D E R.

Revenue Department,

Bombay Castle, 1949.

Bombay Co-operative Societies Act, 1925.

No. .- In exercise of the powers conferred by section 67 of the Bombay Co-operative Societies Act, 1925 (Bom. VII of 1925), the Government of Bombay is pleased to dir direct that the provisions of section 38 of the said Act shall apply to the consumers ', producers housing and farming societies, subject toth the modification that if any such society is unable to pay to its members a dividend of 4 per cent in respect of any year it may make good the deficit by paying the difference out of profits in future years at any time not later than ten years immediately succeeding the year of such deficit.

By order of the Governor of Bombay,

Secretary to Government.

V.M.D. /2-6
46.

Legal Department.

To achieve the object inview, an order under section 67 of the Bombay Co-operative Societies Act, 1925, applying the provisions of section 38 to the Societies in question with suitable modifications and suitable amendment of rule 24 of the Bombay Co-operative Societies Rules, 1927, will be sufficient.

". Accordingly a requisite draft order under section 67 and a requisite draft notification amending rule 24 are sent herewith.

3. It appears that the present rule 24 is defective. As the maximum rate of dividend has been lowered from 10 per cent to 6¼ by amendment of section 38 by Bom. XXVIII of 1948 consequential amendment is necessary in clause (a) of sub-rule (ii) for reducing the figures "7½" to least "6¼". Clause (b) of sub-rule (iii) as it stands at present would apply only to resource or general Societies. The intention appears to be that it should apply to all classes of Societies. Similarly it appears that sub-rule (iii) should apply to all classes of Societies. Opportunity has therefore been taken to recast the rule. The Department may verify whether the revised draft rule is suitable from the administrative point of view.

4. Section 64C(b) of the Act as it stands at present defines the expression "Better Farming Society". By L.A. Bill No. XVII of 1949 it is proposed to amend the Act and to define the expression "Farming Society". Under this definition Better Farming Societies will be a class of Farming Societies. It is presumed that the revised draft rule is intended to apply to farming societies as proposed to be defined by L.A. Bill No. XVII of 1949. If so, the revised draft rule 24 in which the

expression "farming society" has been used may be finally issued after the amending Bill becomes law. The proposed order under section 67 using the same expression may also be issued at that time simultaneously.

Sd/- J.R. Dhurandar
S.S.
Additional Secretary to Government.

U.R. to Revenue Department No. 2506 dated 4th March 1948.

V.M.D./2-5
4m.

Legal Department.

In place of the Revenue Department draft at page 81 ante, a revised draft notification is sent herewith.

Sd/- J.R.Dhurandar
16.4
Additional Secretary to Government.

U.H. to R.D., No. 4213 , dated the 18th April 1949.

V.M.D./2-6
4e.

Legal Department.

The draft regulations,as slightly amended are in order.

Draft regulation 2(e) .- The decision of a competent court on the question whether a person is or is not a legal representative of a deceased person will always prevail and therefore it is necessary to add the words "unless and until a competent court has decided otherwise " at the end as in regulation 2(g) of the Bombay Sales Tax Tribunal Regulations, 1948. The draft regulation has been amended accordingly.

Draft Regulation 6(1) .- It is necessary to provide provide that the Assistant Registrar should endorse the date of receipt by him of any appeal or application. This will enable the Tribunal to decide whether the appeal or application was made within the limitation period; if any (cf. section 56). The draft regulation has been amended suitably.

Draft Regulation 10(2) .- The draft regulation provides that if the President directs preliminary hearing of an appeal or application in which there is no substance then only the appellant etc. shall be heard. The draft regulation does not provide that if the Tribunal by circulation of papers decides to reject an appeal or application an opportunity should be given to the appellant or applicant to represent his case before the Tribunal. Such a provision seems necessary and has therefore been made in the revised draft.

Draft Regulation 24 .- There is no provision in section 63A of the Co-operative Societies Act or the rules made thereunder for constitution of benches for disposal of the business of the Tribunal (cf. section 4(2A) of the Bombay Sales Tax Act, 1946 as inserted by section 3 of Bom. XXVIV of 1948) .. All appeals and applications will have therefore to be disposed of by all the member of the Tribunal sitting to geter. The word "ordinarily"

as therefore been omitted.

Forms.- The statutory designation of the Tribunal i.e. the Bombay Co-operative Tribunal as given in section 63A (1) has been used in the Forms as revised.

Sd/- J.R.Dhurandar.
21.4.
Additional Secretary to Government.

J.R. to R.D. No. 4380 . dated the 21st April 1949.

M.M.D./2-6
&c.

Legal Department.

A revised draft notification is sent herewith.

Askk the promoters would not know the date on which a society will be registered by the Registrar under section 10 of the Act, it would not be possible for them to state estimates of expenditure likely to be incurred after the date of application till the date of registration, as proposed by the Development Department. It is sufficient if it is provided generall that promoters should state the estimates of expenditur likely to be incurred by them with a view to get the society registered under the Act.

Sd/- J.R. Dhuranlar.
8.12

Additional Secretary to Government.

U.R. to Development Department No. 14236, dated the 8th December 1949.

V.M.D./S-6
.46.